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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/711,889

10/12/2004

Ross L. Stevens

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11/12/2008

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EXAMINER

PRESTON, JOHN O

ART UNIT

PAPER NUMBER

3691

MAIL DATE

DELIVERY MODE

11/12/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/711,889	Applicant(s) STEVENS ET AL.
Examiner JOHN O. PRESTON	Art Unit 3691

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 October 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Alexander Kalinowski/
Supervisory Patent Examiner, Art Unit 3691

/John O Preston/
Examiner, Art Unit 3691

Continuation of 11, does NOT place the application in condition for allowance because: Examiner's rejections were necessitated by Applicant's amendments and are now based on 35 USC 103, which does not require that the identical invention be shown in the prior art. Examiner applied the broadest reasonable interpretation of the claims consistent with the specification. In regard to claims 1, 7, and 11, Applicant argues that Gianakourous does not teach the limitation of delivering the quote to a prospective counterparty. Examiner interprets the claim as being an essential part of an executed transaction between two parties, and Gianakourous clearly discloses executed transactions for securities between two parties. Gianakourous implies that the transaction would involve the delivering of a quote to a prospective counterparty during the transaction process. Applicant argues that the limitation of "the at least one historical characteristic is chosen from average spread, liquidity, volatility, or combinations thereof" in claims 3, 4, and 13 is not taught by Gianakourous. Examiner interprets the limitation to include VWAP (Volume weighted average price)-linked prices, opening prices, closing prices, and offer prices, all of which Gianakourous explicitly disclose as methods for generating a price for traded securities. Applicant argues that Olavson does not teach a profitability simulation. However, Examiner does not rely on Olavson to teach said limitation. Examiner relies on Balabon to suggest establishing a profitability constant. Examiner is not persuaded by Applicant's argument that Olavson does not teach producing customized quotations. Examiner interprets the customized quotation limitation as meaning a method of producing a price based on specific factors associated with the transaction. Based on Examiner's interpretation, Olavson does indeed suggest producing a customized quotation based on its disclosure of a price forecasting tool that generates prices based on specific scenarios (Olavson: pgh 134). Applicant argues that Gladstone does not teach the automated component of the invention. Examiner disagrees. Gladstone clearly discloses an automated method of transferring data that would suggest the obviousness of automating the process of generating a customized quote to a person having ordinary skill in the art. Therefore Examiner is not persuaded by Applicant's arguments regarding claims 23, 31, and 37. Applicant argues that all other dependent claims are patentable based on the patentability of claims 1, 7, 11, 23, 31, and 37. Examiner finds Applicant's argument unpersuasive because said claims are not patentable in their current form under 35 USC 103.